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SUBJECT: A/S FRIED DISCUSSES KOSOVO WITH EU OFFICIALS

Classified By: USEU POLMC Chris Davis for reasons 1.4 (b) and (d).

11. (C) Summar: In meetings with EU officials on Kosovo September 3, Assistant Secretary Fried emphasized that EULEX deploy rapidly throughout Kosovo, highlighted the dangers of any possible deal linking EULEX deployment in the north to an abstention on the ICJ vote, and announced that the U.S. was ready to sign a participation agreement (PA). Quad Political Directors discussed - without resolution - the pros and cons of linking strategy on Georgia with strategy on Kosovo. Concerning EU High Representative for CFSP Solana's discussions with Serbian President Tadic, Council Secretariat Western Balkans Unit Director Stefan Lehne said that the thrust of these discussions would be EULEX, not the ICJ issue. In A/S Fried's meeting with EU Civilian Operations Commander Kees Klompenhouwer and EULEX Head of Mission Yves de Kermabon, Klompenhouwer reported that the EU intended to aggressively deploy throughout Kosovo, including the north. EU Council Director General for External Affairs Robert Cooper told Fried he saw no indications a possible deal had been discussed during Tadic's September 3 meetings in Brussels. End Summary.

#### Quad Political Directors Discuss Strategy

12. (C) During A/S Fried's September 3 meeting with the Quad Political Directors, the directors discussed - without resolution - the pros and cons of linking strategy on Georgia with strategy on Kosovo. Specifically, German Political Director Volker Stanzel floated the idea of abstaining on Serbia's request for an ICJ advisory opinion request from the UN in return for Serbia agreeing to EULEX deployment in the north. Fried said the U.S. was skeptical, particularly if Serbia could not be held to its end of the agreement. He said the conditions would have to be very precise, including provisions for border and customs controls. The UK's Political Director Lyall Grant suggested turning the equation around and telling the Serbs they should agree to full EULEX deployment or the EU and U.S. will vote against the Serb ICJ request.

#### Lehne on Solana's Message to Tadic

13. (C) Council Secretariat Western Balkans Unit Director Stefan Lehne told A/S Fried and Ambassador Silverberg that the thrust of EU High Representative for CFSP Solana's September 3 discussions with President Tadic would be EULEX, not the ICJ issue. Interested in decoupling EULEX deployment from the ICJ issue, Lehne reported that Solana

would make it clear to Tadic that opposing EULEX deployment would not be consistent with Serbian EU integration efforts. Responding to A/S Fried's concern about talk of a possible deal on the ICJ vote, Lehne repeated that Solana would seek to link Serbian support of EULEX deployment to next steps on EU integration, not the ICJ issue.

14. (C) Asked if EULEX planned to deploy to the north, Lehne said that if there was no EU consensus, "we will not go in if firm opposition comes from Serbs and Serbia." Agreeing with A/S Fried that not deploying to the north could lead to catastrophic instability, Lehne said that the EU was optimistic that it would be able to deploy to the north by linking deployment to the Interim Agreement. Responding to A/S Fried's suggestion that the U.S. was prepared to sign the U.S.-EU Participation Agreement even without resolution of the privileges and immunities issue, Lehne said that it was his understanding that another week would be necessary before the agreement could be signed.

Klompenhouwer and de Kermabon on EULEX  
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15. (C) In A/S Fried's meeting with EU Civilian Operations Commander Kees Klompenhouwer and EULEX Head of Mission Yves de Kermabon, Klompenhouwer said that the EU intended to aggressively deploy throughout Kosovo, including into the north, but said that the EU approach would have to be tailored to circumstances on the ground. He complained that the EU lacked the manpower or mandate to be too

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forceful with the Serbs unless they could rely upon support from NATO. De Kermabon said the EU would resume deploying EULEX on September 22 with the goal of reaching initial operating capability by December, which might precede Kosovo-wide deployment. He said that reaching full operating capability would depend upon Belgrade's attitude. Although "we don't need Belgrade's permission," he said, "we must be realistic and flexible."

16. (C) De Kermabon outlined his "bottom up approach" to winning Serbian confidence, which would stress guarantees to minorities, ensuring freedom of movement and protection of property. He said that this work inside Kosovo should be complemented by "top down" pressure on Tadic. Belgrade should be made to see that this could be a win-win situation, De Kermabon opined. Serbia loses a million Euros a day to smuggling; this could be recovered once a customs-police-justice agreement was in place and EULEX was operating throughout Kosovo. Klompenhouwer reiterated the importance of convincing Belgrade of its interest in tackling the organized crime that cost it millions and embarrassed the country. He felt that technical discussions on this subject with Serbian authorities could help influence the climate in Kosovo and make it easier for Belgrade to make good decisions and positive statements.

On Relations with UNMIK and TOA  
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17. (C) De Kermabon said that he was working with the UN to define the executive powers that the EU would exercise while under the authority of the UN umbrella and after the EU has completely taken over from the UN. A joint EU-UN working group had been established in Kosovo to produce a shared vision for UN-EU cooperation by the end of September. Klompenhouwer noted the need to figure out how to effect the transition of UNMIK employees to EULEX, especially police. Klompenhouwer said that he hoped the UN could give more helpful messages to Belgrade; they were signaling that there would be no EULEX role in the north and that the border was still open to negotiation. Fried inquired about the motivation for UNMIK's reluctance to leave. Klompenhouwer responded that it was "organizational

inertia," as comfortable UN officials had not wanted to lose their good jobs. They were gradually starting to understand, he noted.

18. (C) According to Klompenhouwer "the critical moment" for EULEX will come when police powers are transferred from UNMIK. The EU would "assume" this authority, rather than ask for any formal transfer of powers. The UN would not be asked to take any decision other than reconfiguration. This might sound unilateral, he acknowledged, but "we cannot wait for the UN's green light." The EU would assume this authority by deploying and operating across Kosovo. Fried acknowledged that asking for a UN decision would provide an opportunity to block it.

19. (C) Yves de Kermabon said that UNMIK would shrink by seventy percent in its non-police areas by the end of autumn, providing that EULEX had sufficient absorption capacity. As it is critical to avoid a security gap, UNMIK will retain police authority until the EU is ready to take the lead. De Kermabon said by the end of the autumn, 300 police should switch to EULEX from UNMIK and there will be four formed police units: two from UNMIK and two from KFOR. Responsibility for police powers would switch at this stage. If reinforcement is needed, he will ask the EU Political and Security Committee a month before the transfer of authority. Klompenhouwer noted, however, that member states were "not enthusiastic" about providing these reinforcements.

#### Borders and Customs -----

110. (C) Pressed for details by A/S Fried, de Kermabon specified that it will be "quite impossible" for EULEX to take responsibility for borders and customs in the north if there is no "flexibility" from Belgrade. EULEX lacks the force to be more aggressive. Fried responded that a stronger approach was needed, cautioning that if the Serbs think that they can deter the EU with intimidation, they

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will act. EULEX will be tested by mobs and if is not up to the task, problems will worsen.

#### Constraints on EULEX Effectiveness and Assertiveness -----

111. (C) Klompenhouwer protested that EULEX must practice "the art of the possible" in Kosovo. The EU does not have military power, he said, its mission is rule of law, not military. Fried encouraged the EU to use all available tools, such as warning the Kosovo Serbs that troublemakers would be arrested and face the same justice as everyone else in Kosovo. Klompenhouwer demurred; the EU mission was built for assistance to Kosovo, with core functions of monitoring, mentoring and advising. Although it would have executive powers, EULEX lacked the means to control the situation.

112. (C) A/S Fried tallied the assets available to EULEX: UNMIK police, EU police, Kosovo police and 18,000 NATO troops. Klompenhouwer responded that NATO does not support EULEX and there is no technical agreement between NATO and the EU. Fried pointed out that practical coordination had been adequate during the March 17 rioting. Klompenhouwer responded by specifying that these had been NATO-UN cooperation. NATO now denied the EU the support that it provided to UNMIK. The EU had informal assurances of in-extremis support only, not the normal operational support and coordination that is needed.

113. (C) De Kermabon said that "pragmatic arrangements" for in-extremis support mean that KFOR will intervene if called upon, but will not assist with police operations or provide support outside of a crisis situation. It will not, for

example, provide EULEX with back-up for crowd and riot control operations. There were no specific arrangements in these areas, he lamented. Fried queried whether that posed a real problem. The EU side responded that if EULEX has to open the border in the north the first day would be the most difficult and NATO and the EU should work together to ensure the situation stayed under control.

¶14. (C) Combating lawlessness in the north of Kosovo is essential to the success of the EU mission, commented Fried, and the EU must ensure that it does not signal weakness to the Serbs. This will only invite mob violence. He underlined that if the Kosovars see the mission failing, it could radicalize them. De Kermabon agreed this is a danger and that EULEX needs to act strongly, but said that the EU would need NATO help to be strong. Because NATO wanted to avoid KFOR becoming the de facto first responder, NATO would not provide support to Rule of Law functions. NATO's interpretation of "safe and secure" was too narrow, the EU officials complained. Fried agreed to discuss the issue with NATO's Secretary General, whom he would shortly visit, and pressed the EU to take a firm in its approach.

Cooper Not Aware of Any Deal with Tadic  
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¶15. (C) In his meeting with Robert Cooper, the EU Council Director General for External Affairs, A/S Fried said EULEX did not need Serbian permission to deploy in the north of Kosovo. In fact, he said, some in Mitrovica might welcome it. Instead of dealing with Belgrade's stonewalling, he continued, Serbian thugs in the north of Kosovo should be threatened with arrest and hard time in a Kosovo jail. On the issue of EULEX and border control, Cooper suggested that NATO and the UN first coordinate their roles. Fried announced that he had the authority to sign the EULEX Participation Agreement for the U.S.

¶16. (C) Cooper said that there had reportedly been no sign of a "deal" during Tadic's meetings in Brussels on September 3. Rather, he said, Belgrade seems "deeply committed" to referring the question of Kosovo independence to the ICJ. Cooper thought that "massive abstentions" were a more likely outcome than defeat for Serbia in a General Assembly vote, given the legacy of the Non-aligned Movement. Nonetheless, Cooper thought it very worthwhile to try to convince other capitals that the matter of independence should remain a political matter, not a legal

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one. In any case, he added, "we've told the Serbians it is a stupid idea."

¶17. (C) Assistant Secretary Fried cleared this cable.

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